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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 5th January, 1996/Pausa 15, 1917 (Saka)

THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS
PROVISIONS (AMENDMENT) ORDINANCE, 1996

No. 2 of 1996

Promulgated by the President in the Forty-sixth Year of the Republic of India.

An Ordinance further to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

WHEREAS the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill, 1993 has been introduced in Parliament but has not yet been passed;

Ord.
13 of 1995.

AND WHEREAS the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Ordinance, 1995, to give effect to the provisions of the said Bill with certain modifications was promulgated by the President on the 17th October, 1995;

AND WHEREAS the said Bill with the amendments for replacing the said Ordinance has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of

the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (1) This Ordinance may be called the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Ordinance, 1996.

(2) It shall be deemed to have come into force on the 16th day of November, 1995.

Amendment of long title.

2. In the long title to the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the principal Act), for the words "family pension fund", the words "pension fund" shall be substituted.

Amendment of section 2.

3. In section 2 of the principal Act,—

(a) clauses (gg) and (ggg) shall be omitted;

(b) after clause (k), the following clauses shall be inserted, namely:—

'(kA) "pension Fund" means the Employees' Pension Fund established under sub-section (2) of section 6A;

'(kB) "Pension Scheme" means the Employees' Pension Scheme framed under sub-section (1) of section 6A;';

(c) after clause (l), the following clause shall be inserted, namely:—

'(ll) "superannuation", in relation to an employee who is the member of the Pension Scheme, means the attainment, by the said employee, of the age of fifty-eight years;''.

Substitution of the word "Pension" for the words "Family Pension".

4. In the principal Act, for the words "Family Pension", wherever they occur, the word "Pension" shall be substituted.

Substitution of a new section for sections 6A and 6B.

5. For sections 6A and 6B of the principal Act, the following section shall be substituted, namely:—

Employees' Pension Scheme.

"6A. (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for—

(a) Superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Act applies; and

(b) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees.

(2) Notwithstanding anything contained in section 6, there shall be established, as soon as may be after framing of the Pension Scheme, a Pension Fund into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension scheme,—

(a) such sums from the employer's contribution under section 6, not exceeding eight and one-third per cent. of the basic wages, dearness allowance and retaining allowance, if any, of the concerned employees, as may be specified in the Pension Scheme;

(b) such sums as are payable by the employers of exempted establishments under sub-section (6) of section 17;

(c) the net assets of the Employees' Family Pension Fund as on the date of the establishment of the Pension Fund;

(d) such sums as the Central Government may, after due appropriation by Parliament by law in this behalf, specify.

(3) On the establishment of the Pension Fund, the Family Pension Scheme (hereinafter referred to as the ceased scheme) shall cease to operate and all assets of the ceased scheme shall vest in and shall stand transferred to, and all liabilities under the ceased scheme shall be enforceable against, the Pension Fund and the beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits, they were entitled to under the ceased scheme, from the Pension Fund.

(4) The Pension fund shall vest in and be administered by the Central Board in such manner as may be specified in the Pension Scheme.

(5) Subject to the provisions of this Act, the Pension Scheme may provide for all or any of the matters specified in Schedule III.

(6) The Pension Scheme may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in that behalf in that Scheme.

(7) A Pension Scheme framed under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be made, the Scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme."

6. In section 6C of the principal Act,—

(a) clause (3) shall be omitted;

(b) clause (b) of sub-section (4) shall be omitted.

Amendment of
section 6C.

7. In section 17 of the principal Act,—

(a) for sub-section (1c), the following sub-section shall be substituted, namely:—

"(1C) The appropriate Government may, by notification in the Official Gazette, and subject to the condition on the pattern of investment of pension fund and such other conditions as may be specified therein, exempt any establishment or class of establishments from the operation of the Pension Scheme if the employees of such establishment or class of establishments are either members of any other pension scheme or proposes to be members of such pension scheme, where the pensionary benefits are at par or more favourable than the Pension Scheme under this Act.";

Amendment of
section 17

(b) in sub-section (6), the words as well "as the employees' contribution" shall be omitted.

8. For Schedule III to the principal Act, the following Schedule shall be substituted, namely:—

Substitution of new
Schedule for
Schedule III.

"SCHEDULE III

[See section 6A(5)]

MATTERS FOR WHICH PROVISION MAY BE MADE IN THE PENSION SCHEME

1. The employees or class of employees to whom the Pension Scheme shall apply.

2. The time within which the employees who are not members of the Family Pension Scheme under section 6A as it stood before the commencement of the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Ordinance, 1996 (hereinafter, in this Schedule, referred to as the amending Ordinance) shall opt for the Pension Scheme.

3. The portion of employers' contribution to the Provident Fund which shall be credited to the Pension Fund and the manner in which it is credited.

4. The minimum qualifying service for being eligible for pension and the manner in which the employees may be granted the benefits of their past service under section 6A as it stood before the commencement of the amending Ordinance.

5. The regulation of the period of service for which no contribution is received.

6. The manner in which employees' interest will be protected against default in payment of contribution by the employer.

7. The manner in which the accounts of the Pension Fund shall be kept and investment of moneys belonging to Pension Fund to be made subject to such pattern of investment as may be determined by the Central Government.

8. The form in which an employee shall furnish particulars about himself and the members of his family whenever required.

9. The forms, registers and records to be maintained in respect of employees, required for the administration of the Pension Scheme.

10. The scale of pension and pensionary benefits and the conditions relating to grant of such benefits to the employees.

11. The manner in which the exempted establishments have to pay contribution towards the Pension Scheme and the submission of returns relating thereto.

12. The mode of disbursement of pension and arrangements to be entered into with such disbursing agencies as may be specified for the purpose.

13. The manner in which the expenses for administering the Pension Scheme will be met from the income of the Pension Fund.

14. Any other matter which is to be provided for in the Pension Scheme or which may be necessary or proper for the purpose of implementation of the Pension Scheme."

Repeal and
saving.

9. (1) the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Ordinance, 1995 is hereby repealed.

Ord.
13 of 1995.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

CORRIGENDA

In the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Ordinance, 1995 (Ord. 13 of 1995) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 17th October, 1995 (Issue No. 61).

1. At page 1,—

(i) In the long title, *for* "Miscellaneous," *read* "and Miscellaneous";

(ii) In the last line, *for* "inot", *read* "into".

2. At page 2,—

(i) In line 13, *for* "relaton", *read* "relation";

(ii) In line 24, *for* "establihsment", *read* "establishment".

3. At page 4, in line 37, *for* "estabishments", *read* "establishments".

